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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,102	06/08/2006	Bent Severin	66722086	7421

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EXAMINER

PENDLETON, DIONNE

ART UNIT	PAPER NUMBER
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2627

MAIL DATE	DELIVERY MODE
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10/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,102

Applicant(s)

SEVERIN, BENT

Examiner

Dionne H. Pendleton

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Killion (US 3,835,263)** in view of **Killion (US 6,876,749)** and further in view of **Narisawa (US 6,041,128)**.

in **figure 4, Killion '263** teaches a hearing aid **36** for placement behind the ear lobe of a hearing aid user, comprising a top shell part (see upper perimeter of housing) and a bottom shell part (see lower perimeter of housing).

Killion '263 does not clearly teach that the hearing aid has a rigid circuit board, a suspension or a top shell constructed as specifically claimed.

In **Figure 2A, Killion '749** teaches a hearing aid, wherein the hearing aid has a circuit board **59** mounted in the bottom shell part and which defines a projecting flange ("**65**" in figure 2a);

a microphone **41** mounted on said projecting flange **65**, said microphone including a casing (see cartridge housing "**41**") and a suspension (**35,39**) which extends away from the casing and which defines a sound canal ("**49**" or "**47**" in figure 2a) at a free end thereof, and

a top shell part **75** which is positioned on the bottom shell part *via attachment to surrounding shell parts*, to enclose the circuit board and the microphone, said top shell part defining a sound opening ("**79**" or "**77**" in **figure 2a**) and a snout part ("**91**" in **figure 2b**; also see column 5, lines 58-60) which extends from the sound opening ("**77**" in **figure 2a**; shown but unlabeled in **figure 3**) inwardly of the top shell part **75** and to which the sound canal ("**47**" in **figure 2a**; shown but unlabeled in **figure 3**) at the free end of the suspension **35** is connected.

It would have been obvious for one of ordinary skill in the art at the time of the invention to substitute the microphone assembly of **Killion '749** for that of **Killion '263**, thereby providing flexibility in choosing the frequency response of the microphone, as well as a less acoustically complex assembly having omni-directional and directional modes of operation.

The combined disclosures of **Killion '263** and **Killion'749** fail to teach that the top shell part is removably positioned.

Narisawa teaches in disclosure relating to the prior art in column 1, lines 26-35, and illustrates in **Figures 3-5**, a top shell part **5** removably positioned.

It would have been obvious for one of ordinary skill in the art at the time of the invention to alter the combined teachings of **Killion '263** and **Killion '749**, per the teachings of **Narisawa**, for the purpose of providing easily accessible internal components for easy repair and/or adjustment.

Response to Arguments

3. Applicant's arguments with respect to claim 1-5 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne H. Pendleton whose telephone number is 571-272-7497. The examiner can normally be reached on 10:30-7:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571-272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


D. Pendleton


BRIAN E MILLER
PRIMARY EXAMINER AV 2627